

amended by striking "section 711" and inserting "sections 711 and 713".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Patient protection standards."

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 144(b))" after "part 7".

SEC. 302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICY-HOLDERS.

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsection:

"(e) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

"(1) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action brought by a plan participant or beneficiary (or the estate of a plan participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

"(A) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan (as defined in section 733), or

"(B) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(2) EXCEPTION FOR EMPLOYERS AND OTHER PLAN SPONSORS.—

"(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

"(i) any cause of action against an employer or other plan sponsor maintaining the group health plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

"(ii) a right of recovery or indemnity by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

"(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) if—

"(i) such action is based on the employer's or other plan sponsor's (or employee's) exercise of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

"(ii) the exercise by such employer or other plan sponsor (or employee) of such authority resulted in personal injury or wrongful death.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as permitting a cause of action under State law for the failure to provide an item or service which is not covered under the group health plan involved."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this Act from which a cause of action arises.

TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

SEC. 401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patient freedom of choice."; and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of title I of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section."

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 1999 (in this section referred to as the "general effective date").

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 502. COORDINATION IN IMPLEMENTATION.

Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by striking "this subtitle (and the amendments made by this subtitle and section 401)" and inserting "the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, chapter 100 of the Internal Revenue Code of 1986, and title I of the Patients' Bill of Rights Act of 1998".

TITLE VI—REVENUE PROVISIONS

SEC. 601. ESTATE TAX TECHNICAL CORRECTION.

(a) IN GENERAL.—Paragraph (2) of section 2001(c) of the Internal Revenue Code of 1986 is amended by striking "\$10,000,000" and all that follows and inserting "\$10,000,000. The amount of the increase under the preceding

sentence shall not exceed the sum of the applicable credit amount under section 2010(c) (determined without regard to section 2057(a)(3)) and \$359,200."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 501 of the Taxpayer Relief Act of 1997.

SEC. 602. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Section 332 of the Internal Revenue Code of 1986 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

"(c) DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution."

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 332(b) of such Code is amended by striking "subsection (a)" and inserting "this section".

(2) Paragraph (1) of section 334(b) of such Code is amended by striking "section 332(a)" and inserting "section 332".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after May 21, 1998.

When said amendment was considered.

After debate,

The question being put, viva voce,

Will the House agree to said amendment in the nature of a substitute?

The SPEAKER pro tempore, Mr. KOLBE, announced that the nays had it.

Mr. DINGELL demanded a recorded vote on agreeing to said amendment in the nature of a substitute, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas 212
negative } Nays 217

74.7

[Roll No. 336]

YEAS—212

Abercrombie	Brady (PA)	Delahunt
Ackerman	Brown (CA)	DeLauro
Allen	Brown (FL)	Deutsch
Andrews	Brown (OH)	Dicks
Baessler	Capps	Dingell
Baldacci	Cardin	Dixon
Barcia	Carson	Doggett
Barrett (WI)	Clay	Dooley
Becerra	Clayton	Doyle
Bentsen	Clement	Edwards
Berman	Clyburn	Engel
Berry	Condit	Eshoo
Bilbray	Conyers	Etheridge
Bishop	Costello	Evans
Blagojevich	Coyne	Farr
Blumenauer	Cramer	Fattah
Boehlert	Cummings	Fazio
Bonior	Danner	Filner
Borski	Davis (FL)	Forbes
Boswell	Davis (IL)	Fox
Boucher	DeFazio	Frank (MA)
Boyd	DeGette	Frost

Furse	Maloney (CT)	Roemer	Pappas	Ryun	Stump
Ganske	Maloney (NY)	Rothman	Parker	Salmon	Sununu
Gedjenson	Manton	Roukema	Paul	Sanford	Talent
Gephardt	Martinez	Roybal-Allard	Paxon	Saxton	Tauzin
Goode	Mascara	Rush	Pease	Scarborough	Taylor (NC)
Gordon	Matsui	Sabo	Peterson (PA)	Schaefer, Dan	Thomas
Green	McCarthy (MO)	Sanchez	Petri	Schaffer, Bob	Thornberry
Gutierrez	McCarthy (NY)	Sanders	Pickering	Sensenbrenner	Thune
Hall (OH)	McDermott	Sandlin	Pitts	Sessions	Tiahrt
Hall (TX)	McGovern	Sawyer	Pombo	Shadegg	Upton
Hamilton	McHale	Schumer	Porter	Shaw	Walsh
Harman	McIntyre	Scott	Portman	Shays	Wamp
Hastings (FL)	McKinney	Serrano	Pryce (OH)	Shimkus	Watkins
Hefner	McNulty	Sherman	Quinn	Shuster	Watts (OK)
Hilliard	Meehan	Sisisky	Radanovich	Skeen	Weldon (FL)
Hinchey	Meek (FL)	Skaggs	Ramstad	Smith (MI)	Weldon (PA)
Holden	Meeks (NY)	Skelton	Redmond	Smith (NJ)	Weller
Hooley	Menendez	Slaughter	Regula	Smith (OR)	White
Horn	Millender-	Smith, Adam	Riggs	Smith (TX)	Whitfield
Hoyer	McDonald	Snyder	Riley	Smith, Linda	Wicker
Jackson (IL)	Miller (CA)	Spratt	Rogan	Snowbarger	Wilson
Jackson-Lee	Minge	Stabenow	Rogers	Solomon	Wolf
(TX)	Mink	Stark	Rohrabacher	Souder	Young (AK)
Jefferson	Moakley	Stenholm	Ros-Lehtinen	Spence	
John	Mollohan	Stokes	Royce	Stearns	
Johnson (WI)	Moran (VA)	Strickland			
Johnson, E. B.	Morella	Stupak			
Kanjorski	Murtha	Tanner			
Kaptur	Nadler	Tauscher			
Kennedy (MA)	Neal	Taylor (MS)			
Kennedy (RI)	Oberstar	Thompson			
Kennelly	Obey	Thurman			
Kildee	Olver	Tierney			
Kilpatrick	Ortiz	Torres			
Kind (WI)	Owens	Towns			
Klecza	Pallone	Trafficant			
Klink	Pascrell	Turner			
Kucinich	Pastor	Velazquez			
LaFalce	Payne	Vento			
Lampson	Pelosi	Visclosky			
Lantos	Peterson (MN)	Waters			
LaTourette	Pickett	Watt (NC)			
Leach	Pomeroy	Waxman			
Lee	Poshard	Wexler			
Levin	Price (NC)	Weygand			
Lewis (GA)	Rahall	Wise			
Lipinski	Rangel	Woolsey			
Lofgren	Reyes	Wynn			
Lowey	Rivers				
Luther	Rodriguez				

NAYS—217

Adherholt	Deal	Hunter
Archer	DeLay	Hutchinson
Armey	Diaz-Balart	Hyde
Bachus	Dickey	Inglis
Baker	Doolittle	Istook
Ballenger	Dreier	Jenkins
Barr	Duncan	Johnson (CT)
Barrett (NE)	Dunn	Johnson, Sam
Bartlett	Ehlers	Jones
Barton	Ehrlich	Kasich
Bass	Emerson	Kelly
Bateman	English	Kim
Bereuter	Ensign	King (NY)
Billirakis	Everett	Kingston
Bliley	Ewing	Klug
Blunt	Fawell	Knollenberg
Boehner	Foley	Kolbe
Bonilla	Fossella	LaHood
Bono	Fowler	Largent
Brady (TX)	Franks (NJ)	Latham
Bryant	Frelinghuysen	Lazio
Bunning	Gallely	Lewis (CA)
Burr	Gekas	Lewis (KY)
Burton	Gibbons	Linder
Buyer	Gilchrist	Livingston
Callahan	Gillmor	LoBiondo
Calvert	Gilman	Lucas
Camp	Gingrich	Manzullo
Campbell	Goodlatte	McCollum
Canady	Goodling	McCrery
Cannon	Goss	McDade
Castle	Graham	McHugh
Chabot	Granger	McInnis
Chambliss	Greenwood	McIntosh
Chenoweth	Gutknecht	McKeon
Christensen	Hansen	Metcalf
Coble	Hastert	Mica
Coburn	Hastings (WA)	Miller (FL)
Collins	Hayworth	Moran (KS)
Combest	Hefley	Myrick
Cook	Herger	Nethercutt
Cooksey	Hill	Neumann
Cox	Hilleary	Ney
Crane	Hobson	Northup
Crapo	Hoekstra	Norwood
Cubin	Hostettler	Nussle
Cunningham	Houghton	Oxley
Davis (VA)	Hulshof	Packard

Subtitle C—Deduction for Health Insurance Costs of Self-Employed Individuals

SEC. 3201. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—The table contained in subparagraph (B) of section 162(l)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

In the case of taxable years beginning in calendar year:	The applicable percentage is:
1999, 2000, and 2001 ..	60 percent
2002	70 percent
2003 or thereafter ...	100 percent."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1998.

Pending consideration of said motion,

¶74.8 POINT OF ORDER

Mr. THOMAS made a point of order against the motion to recommit with instructions, and said:

"Mr. Speaker, contained among the numerous provisions in the motion to recommit is striking the medical savings accounts. Notwithstanding the gentleman's representation that this will save billions of dollars a year, the Congressional Budget Office says that simply is not so. In fact, it will save less than \$1 billion a year. That is the point on which the point of order turns, because the gentleman's addition of the acceleration of the self-employed deduction in fact scores more than \$1 billion and therefore is subject to a 303 Congressional Budget Act point of order. It in fact increases the budget before the final budget is adopted in a given fiscal year. It applies clearly in this particular instance. A point of order, therefore, lies against the gentleman and I would urge the Chair to sustain the 303(a) Congressional Budget Act point of order."

Mr. CARDIN was recognized to speak to the point of order and said:

"If I understand the gentleman from California's point is that the striking of the medical savings account provision would not save as much money as accelerating the self-employed insurance deduction by 4 years.

"Mr. Speaker, I would like to include in the RECORD a document that has been received from the Joint Committee on Taxation that shows that striking the medical savings account provision will save \$4.1 billion, the self-employed health insurance deduction would cost \$3.4 billion, for a net revenue savings to the treasury of \$687 million."

The SPEAKER pro tempore, Mr. KOLBE, sustained the point of order, and said:

"The amendment proposed in the motion to recommit would strike one of the revenue provisions from the bill. The amendment also would insert an alternate revenue change. In this latter respect, the amendment 'provides an increase or decrease in revenues' within the meaning of section 303 of the Budget Act.

"Because this revenue change would occur during fiscal year 1999, a year for

NOT VOTING—6

Ford	Hinojosa	Yates
Gonzalez	Markey	Young (FL)

So the amendment in the nature of a substitute was not agreed to.

Pursuant to House Resolution 509, the previous question was ordered on the bill, as amended.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

Mr. BERRY moved to recommit the bill to the Committee on Ways and Means and the Committee on Education and the Workforce with instructions to report the bill back to the House forthwith with the following amendments:

Page 38, beginning on line 9, strike "does not meet the plan's requirements for medical appropriateness or necessity" and insert "is not medically necessary and appropriate".

Page 39, beginning on line 16, strike "does not meet the plan's requirements for medical appropriateness or necessity" and insert "is not medically necessary and appropriate".

Page 48, beginning on line 17, strike "does not meet the plan's requirements for medical appropriateness or necessity" and insert "is not medically necessary and appropriate".

Page 53, beginning on line 17, strike "meets, under the facts and circumstances at the time of the determination, the plan's requirement for medical appropriateness or necessity" and insert "is, under the facts and circumstances at the time of the determination, medically necessary and appropriate".

Page 60, line 17, strike all that follows the first period.

Page 60, after line 17, insert the following new subparagraph:

"(V) MEDICAL NECESSITY AND APPROPRIATENESS.—The term 'medically necessary and appropriate' means, with respect to an item or service, an item or service determined by the treating physician (who furnishes items and services under a contract or other arrangement with the group health plan or with a health insurance issuer providing health insurance coverage in connection with such a plan), after consultation with a participant or beneficiary, to be required, according to generally accepted principles of good medical practice, for the diagnosis or direct care and treatment of an illness or injury of the participant or beneficiary."

Page 227, strike line 1 and all that follows through page 233, line 3, and insert the following (and conform the table of contents accordingly):